

CHAPTER 1179
HABILITATIVE SERVICES AND TREATMENT TO
MENTALLY RETARDED PRISONERS

H.F. 748

AN ACT requiring the director of the division of adult corrections to provide available habilitative services and treatment to imprisoned mentally retarded offenders.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 217.14, subsection 3, Code 1981, is amended to read as follows:

3. Establishment and maintenance of acceptable standards of treatment, training, education and rehabilitation in the various state penal and corrective institutions which, to the extent that resources are available within the division of adult corrections, shall include habilitative services and treatment for mentally retarded offenders. For the purposes of this subsection habilitative services and treatment means medical, mental health, social, educational, counseling, and other services which will assist a mentally retarded person to become self-reliant. A person is considered mentally retarded if the person is diagnosed as mentally retarded, as defined in section 222.2, subsection 5, by a qualified mental retardation professional. However, the director may also provide habilitative treatment and services to other persons who require the services.

Approved May 3, 1982

CHAPTER 1180

PENALTY AND INTEREST PAYABLE FOR FAILURE TO REMIT STATE TAX DUE

H.F. 2362

AN ACT relating to the penalty for failure to pay or remit ninety percent of tax for state motor vehicle fuel taxes, freight line and equipment car mileage taxes, income taxes, franchise taxes, inheritance and estate taxes, local hotel and motel taxes, and generation skipping transfer taxes, including provision for a variable interest rate for underpayment or overpayment on estimated payments of corporate income and franchise taxes, and making the Act retroactive to January 1, 1982, effective upon publication.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 324.65, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 131, section 3, is amended to read as follows:

324.65 PENALTY FOR FAILURE TO PROMPTLY REPORT OR PAY FUEL TAXES. If a licensee or other person fails to file a required report with the appropriate state agency on or before the due date, unless it is shown that the failure was due to reasonable cause there shall be added to the amount required to be shown as tax due on the return five percent of the amount of the tax if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate. If a licensee or other person fails to remit at least ninety percent of the tax due with the filing of the return on or before the due date or fails to pay pays less than ninety percent of any amount of the tax required to be shown on the return, unless it is shown that the failure was due to reasonable cause, there shall be added to the tax a penalty of five percent of the amount of the tax due, if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate. The taxpayer shall also pay interest on the tax or additional tax at the rate in effect under section 1 of this Act counting each fraction of a month as an entire month, computed from the date the return was required to be filed.

PARAGRAPH DIVIDED. The appropriate state agency shall not remit any part of a penalty for delinquent payment where the delinquency results from the fact that a check given in payment is not honored because of insufficient funds in the account upon which the check was drawn. However, if it appears as a result of an investigation or from a preponderance of the evidence adduced at a hearing that there has been a deliberate attempt on the part of a licensee or other person to evade payment of fuel taxes there shall be added to the assessment against the offending person and collected a penalty of fifty percent of the tax due. When penalties are applicable for failure to file a return and failure to pay the tax due or required on the return, the penalty provision for failure to file ~~shall be~~ is in lieu of the penalty for failure to pay the tax due or required on the return, except in the case of a deliberate attempt on the part of the licensee or other person to evade payment of fuel taxes. Any report required of licensees or persons operating under divisions I, II and III, upon which no tax may be due, ~~shall be~~ is subject to a penalty of ten dollars if the report is not timely filed with the appropriate state agency.

Sec. 2. Section 422.16, subsection 10, paragraph b, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 131, section 5, is amended to read as follows:

b. Any employer or withholding agent required under this chapter to withhold taxes on wages or other taxable Iowa income subject to this chapter who fails to file a monthly deposit form or quarterly return for the withholding of tax with the department on or before the due date, unless it is shown that the failure was due to reasonable cause, is subject to a penalty determined by adding to the amount required to be shown as tax due on the monthly deposit form or quarterly return five percent of the amount of the tax if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate. If any person or withholding agent fails to remit at least ninety percent of the tax due with the filing of the monthly deposit form or quarterly return on or before the due date, or fails to pay any amount of pays less than ninety percent of any tax required to be shown on the monthly deposit form or quarterly return, unless it is shown that the failure was due to reasonable cause, there shall be added to the tax a penalty of five percent of the amount of the tax due, if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate. When penalties are applicable for failure to file a monthly deposit form or quarterly return and failure to pay the tax due or required on the monthly deposit

form or quarterly return, the penalty provision for failure to file is in lieu of the penalty provision for failure to pay the tax due or required on the monthly deposit form or quarterly return. The taxpayer shall also pay interest on the tax or additional tax at the rate in effect under section 1 of this Act for each month counting each fraction of a month as an entire month, computed from the date the monthly deposit form or quarterly return was required to be filed. The penalty and interest become a part of the tax due from the withholding agent.

Sec. 3. Section 422.25, subsection 2, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 131, section 8, is amended to read as follows:

2. In addition to the tax or additional tax determined by the department under subsection 1, the taxpayer shall pay interest on the tax or additional tax at the rate in effect under section 1 of this Act for each month counting each fraction of a month as an entire month, computed from the date the return was required to be filed. In case of failure to file a return with the department on or before the due date determined with regard to any extension of time for filing, unless it is shown that the failure was due to reasonable cause and not due to willful neglect, there shall be added to the amount required to be shown as tax on the return five percent of the amount of the tax if the failure is for not more than one month, with an additional five percent for each additional month or fraction thereof during which the failure continues, not exceeding twenty-five percent in the aggregate. If any person fails to remit at least ninety percent of the tax due with the filing of the return on or before the due date, or fails to pay any amount of pays less than ninety percent of any tax required to be shown on the return, unless it is shown that the failure was due to reasonable cause, there shall be added to the tax a penalty of five percent of the tax due, if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate. In case of willful failure to file a return with intent to evade tax, or in case of willfully filing a false return with intent to evade tax, in lieu of the penalty otherwise provided in this subsection, there shall be added to the amount required to be shown as tax on the return fifty percent of the amount of the tax. When penalties are applicable for failure to file a return and failure to pay the tax due or required on the return, the penalty provision for failure to file is in lieu of the penalty provision for failure to pay the tax due or required on the return except in the case of willful failure to file a return and willfully filing of a false return with intent to evade tax.

Sec. 4. Section 422.88, subsection 1, Code 1981, is amended to read as follows:

1. If the taxpayer submits an underpayment of the estimated tax, the taxpayer shall be is subject to an underpayment penalty at the rate of three-fourths of one percent per month established under Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 131, section 1 upon the amount of the underpayment for the period of the underpayment.

Sec. 5. Section 422.91, unnumbered paragraph 1, Code 1981, as amended by Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 133, section 3, is amended to read as follows:

Any amount of tax paid on a declaration of estimated tax shall be a credit against the amount of tax due on a final, completed return, and any overpayment of five dollars or more shall be refunded to the taxpayer with interest, the interest to begin to accrue on the first day of the second calendar month following the date of payment or the date the return was due to be filed or was filed, whichever is the latest, at the rate of three-fourths of one percent per month or fraction of a month established under Acts of the Sixty-ninth General Assembly, 1981 Session, chapter 131, section 1, and the return shall constitute a claim for refund for this purpose. Amounts less than five dollars shall be refunded to the taxpayer only upon written application in accordance with section 422.73, but only if the application is filed within twelve months after the due date for the return.

Sec. 6. Section 435.5, Code 1981, is amended to read as follows:

435.5 PENALTY. In case of failure to file a return with the department on or before the due date, unless it is shown that the failure was due to reasonable cause and not due to willful neglect, there shall be added to the amount required to be shown as tax on the return five percent of the amount of tax if the failure is for not more than one month, with an additional five percent for each additional month or fraction thereof during which the failure continues, not exceeding twenty-five percent in the aggregate. If any person fails to remit at least ninety percent of the tax due with the filing of the return on or before the due date, or fails to pay pays less than ninety percent of the total amount of the tax due as shown on the return, unless it is shown that the failure was due to reasonable cause, there shall be added to the tax a penalty of five percent of the tax due, if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate. In case of willful failure to file a return with intent to evade tax, or in case of willfully filing a false return with intent to evade tax, in lieu of the penalty above provided, there shall be added to the amount required to be shown as tax on the return fifty percent of the amount of the tax. When penalties are applicable for failure to file a return and failure to pay the tax due or required on the return, the penalty provision for failure to file ~~shall be~~ is in lieu of the penalty provision for failure to pay the tax due or required on the return except in the case of willful failure to file a return and willfully filing of a false return with intent to evade tax.

Sec. 7. Section 450.63, subsection 2, Code 1981, is amended to read as follows:

2. If a person liable for the payment of tax as stated in section 450.5 fails to file a return with the department of revenue on or before the due date, unless it is shown that the failure was due to reasonable cause, there shall be added to the amount of tax required to be shown as tax due on the return five percent of the amount of the tax, if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate. If a person fails to remit at least ninety percent of the tax due with the filing of the return on or before the due date or fails to pay pays less than ninety percent of any amount of tax required to be shown on the return, unless it is shown that the failure was due to reasonable cause, there shall be added to the tax a penalty of five percent of the amount of the tax due, if the failure is for not more than one month, with an additional five percent for each additional month or fraction of a month during which the failure continues, not exceeding twenty-five percent in the aggregate. When penalties are applicable for failure to file a return and failure to pay the tax due or required to be shown on the return, the penalty provision for failure to file ~~shall be~~ is in lieu of the penalty provision for failure to pay the tax due or required to be shown on the return.

Sec. 8. This Act, except sections 4 and 5, is retroactive to January 1, 1982 for tax returns due on or after that date.

Sec. 9. Sections 4 and 5 of this Act are retroactive to January 1, 1982 for computation of underpayments of estimated taxes already due and payable or to become due and payable on or after that date and for computation on interest on overpayments already paid or to become due and payable on or after that date.

Sec. 10. This Act, being deemed of immediate importance, takes effect from and after its publication in the Diamond Trail News, a newspaper published in Sully, Iowa, and in The Manchester Press, a newspaper published in Manchester, Iowa.

Approved May 3, 1982

I hereby certify that the foregoing Act, House File 2362 was published in the Diamond Trail News, Sully, Iowa on May 12, 1982 and in The Manchester Press, Manchester, Iowa, on May 12, 1982.

MARY JANE ODELL, *Secretary of State*

CHAPTER 1181
CRIMINAL AND JUVENILE JUSTICE PLANNING AGENCY
AND ADVISORY COUNCIL
S.F. 464

AN ACT creating a criminal and juvenile justice planning agency and a criminal and juvenile justice advisory council, prescribing duties, transferring existing programs, and abolishing the Iowa crime commission.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. **NEW SECTION. AGENCY CREATED.** The criminal and juvenile justice planning agency is created in the office of the governor. The agency is responsible for coordinating criminal and juvenile justice activities in the state including planning, research, program implementation, and the administration of grants and other funds. The governor shall appoint the executive director of the agency who shall serve at the pleasure of the governor. As used in sections 1 through 4 of this Act unless the context otherwise requires "agency" means the criminal and juvenile justice planning agency created in this section.

Sec. 2. **NEW SECTION. ADVISORY COUNCIL.** The criminal and juvenile justice advisory council is created to advise the agency in the performance of its duties and to perform other duties as required by law. The council shall consist of eleven members. The governor shall appoint seven members each for a four year term beginning and ending as provided in section 69.19 and subject to confirmation by the senate as follows:

1. Three persons who are either a county supervisor, county sheriff, a mayor, city chief of police or a county attorney.
2. Two persons shall represent the general public and shall not be employed in any law enforcement, judicial, or corrections capacity.
3. Two persons who are knowledgeable about Iowa's juvenile justice system.

The commissioner of the department of social services, the commissioner of public safety, the attorney general and the chief justice of the supreme court shall each designate a person to serve on the council.